

**SUBSTITUTE FOR  
SENATE BILL NO. 406**

A bill to prescribe the procedures, terms, and conditions for the qualification or approval of school bonds and other bonds; to authorize this state to make loans to certain school districts for the payment of certain bonds and to authorize schools to borrow from this state for that purpose; to prescribe the terms and conditions of certain loans to school districts; to prescribe the powers and duties of certain state agencies and certain state and local officials; to provide for certain fees; to prescribe certain penalties; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the "school  
2 bond qualification, approval, and loan act".

3       Sec. 2. The purpose of this act is to implement section 16 of  
4 article IX of the state constitution of 1963 and to provide for loans  
5 to school districts.

## Senate Bill No. 406 as amended June 8, 2005

1       Sec. 3. As used in this act:

2           (a) "Computed millage" means the number of mills in any year, not  
3       less than 7 mills and not more than 13 mills, determined on the date  
4       of issuance of the order qualifying the bonds or on a later date if  
5       requested by the school district and approved by the state treasurer,  
6       that, if levied by the school district, will generate sufficient  
7       annual proceeds to pay principal and interest on all the school  
8       district's qualified bonds plus principal and interest on all loans  
9       related to those qualified bonds no later than the date specified in  
10      the note and repayment agreement entered into by the school district  
11      under this act.

12          (b) "Qualified bond" means a bond that is qualified under this  
13      act for state loans as provided in section 16 of article IX of the  
14      state constitution of 1963. A qualified bond includes the interest  
15      amount required for payment of a school district's net interest  
16      obligation under an interest rate exchange or swap, hedge, or other  
17      agreement entered into pursuant to the revised municipal finance act,  
18      2001 PA 34, MCL 141.2101 to 141.2821, but does not include a  
19      termination payment or similar payment related to the termination or  
20      cancellation of an interest rate exchange or swap, hedge, or other  
21      similar agreement. <<

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24      >>  
25          (c) "Qualified loan" means a loan made under this act or 1961 PA  
26      108, MCL 388.951 to 388.963, from this state to a school district to  
27      pay debt service on a qualified bond.

1 (d) "Revolving loan fund" means the school loan revolving fund  
2 created under section 16c of the shared credit rating act, 1985 PA  
3 227, MCL 141.1066c.

4 (e) "School district" means a general powers school district  
5 organized under the revised school code, 1976 PA 451, MCL 380.1 to  
6 380.1852, or a school district of the first class as described in the  
7 revised school code, 1976 PA 451, MCL 380.1 to 380.1852, having the  
8 power to levy ad valorem property taxes.

9 (f) "State treasurer" means the state treasurer or his or her  
10 duly authorized designee.

11 (g) "Superintendent of public instruction" means the  
12 superintendent of public instruction appointed under section 3 of  
13 article VIII of the state constitution of 1963.

14 (h) "Taxable value" means the value determined under section 27a  
15 of the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

16 Sec. 4. (1) A school district may issue and market bonds as  
17 qualified bonds if the state treasurer has issued an order granting  
18 qualification under this act.

19 (2) Except with regard to qualification of new bonds, nothing in  
20 this act shall be construed to alter the terms and conditions  
21 applicable to outstanding qualified bonds issued in accordance with  
22 1961 PA 108, MCL 388.951 to 388.963, and the loans associated with  
23 those qualified bonds. Unless otherwise amended as permitted by this  
24 act, outstanding qualified loans incurred in association with  
25 outstanding qualified bonds described in this subsection shall  
26 continue to bear interest and be due and payable as provided in the  
27 repayment agreements entered into between the school district and the

1 state before the effective date of this act.

2 (3) The state treasurer may qualify bonds for which the state  
3 treasurer has received an application for prequalification on or  
4 before May 25, 2005 without regard to the requirements of section  
5 5(2)(f) if the electors of the school district approve the bonds at an  
6 election held during 2005.

7 Sec. 5. (1) A school district may apply to the state treasurer  
8 for preliminary qualification of a proposed school bond issue by  
9 filing all of the following with the state treasurer:

10 (a) An application in the form and containing the information  
11 required by this act.

12 (b) An application fee in the amount determined by the state  
13 treasurer to be necessary to fund the costs of processing the  
14 application, but not less than \$500.00.

15 (2) An application for preliminary qualification of a school bond  
16 shall contain all of the following information:

17 (a) The proposed ballot language to be submitted to the electors.

18 (b) A description of the project or projects proposed to be  
19 financed.

20 (c) A pro forma debt service projection showing the estimated  
21 mills the school district will levy to provide revenue the school  
22 district will use to pay the qualified bonds. For the purpose of the  
23 pro forma debt service projection, the school district may assume for  
24 the first 5 years following the date of the application the average  
25 growth in taxable value for the 5 years preceding the date of the  
26 application and the lesser of that average growth rate or 3% for the  
27 remaining term of the proposed bonds.

1 (d) Evidence that the rate of utilization of each project to be  
2 financed will be at least 85% for new buildings and 60% for renovated  
3 facilities. If the projected enrollment of the district would not  
4 otherwise support utilization at the rates described in this  
5 subsection, the school district may include an explanation of the  
6 actions the school district intends to take to address the  
7 underutilization, including, if applicable, actions to close school  
8 buildings or other actions designed to assure continued assured use of  
9 the facilities being financed.

10 (e) Evidence that the cost per square foot of the project or  
11 projects will be reasonable in light of economic conditions applicable  
12 to the geographic area in which the school district is located.

13 (f) Evidence that the school district will repay all outstanding  
14 qualified loans at the times described in section 9.

15 (g) The weighted average age of all school buildings in the  
16 school district based on square footage.

17 (h) The overall utilization rate of all school buildings in the  
18 school district, excluding special education purposes.

19 (i) The taxable value per pupil.

20 (j) The total bonded debt outstanding of the school district and  
21 the total taxable value of property in the school district for the  
22 school district fiscal year in which the application is filed.

23 (k) A statement describing any environmental or usability  
24 problems to be addressed by the project or projects.

25 (l) An architect's analysis of the overall condition of the  
26 facilities to be renovated or replaced as a part of the project or  
27 projects.

1 (m) An amortization schedule demonstrating that the weighted  
2 average maturity of the qualified bond issue does not exceed 120% of  
3 the average reasonably expected useful life of the facilities,  
4 excluding land and site improvements, being financed or refinanced  
5 with the proceeds of the qualified bonds, determined as of the later  
6 of the date on which the qualified bonds will be issued or the date on  
7 which each facility is expected to be placed in service.

8 Sec. 6. The state treasurer may prequalify bonds of a school  
9 district if the state treasurer determines all of the following:

10 (a) The issuance of additional qualified bonds will not prevent  
11 the school district from repaying its outstanding qualified loans on  
12 the earlier of the dates described in section 9.

13 (b) The form of the ballot conforms with the requirements of this  
14 act.

15 Sec. 7. (1) The state treasurer may qualify bonds of a school  
16 district if the state treasurer determines all of the following:

17 (a) A majority of the school district electors have approved the  
18 bonds.

19 (b) The terms of the bond issue comply with applicable provisions  
20 of the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

21 (c) The school district is in compliance with the revised  
22 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

23 (d) The weighted average maturity of the qualified bond issue  
24 does not exceed 120% of the average reasonably expected useful life of  
25 the facilities, excluding land and site improvements, being financed  
26 or refinanced with the proceeds of the bonds, determined as of the  
27 later of the date on which the qualified bonds will be issued or the

1 date on which each facility is expected to be placed in service.

2 (e) The school district has filed any information necessary to  
3 update the contents of the original application to reflect changes in  
4 any of the information approved in the preliminary qualification  
5 process.

6 (f) The school district has paid a qualification fee of not less  
7 than \$3,000.00 or the amount determined by the state treasurer, which  
8 shall be approximately equal to the amount required to pay the  
9 estimated administrative expenses incurred under this act for the  
10 fiscal year in which the state treasurer imposes the fee.

11 (2) An order qualifying bonds shall specify the principal and  
12 interest payment dates for all the bonds, the maximum principal amount  
13 of and maximum interest rate on the bonds, the computed millage, if  
14 any, the final repayment date for any loans made with respect to those  
15 bonds, and other matters as the state treasurer shall determine or as  
16 are required by this act.

17 (3) If the application for prequalification demonstrates that the  
18 school district will borrow from this state in accordance with this  
19 act, the state treasurer and the school district shall enter into a  
20 loan agreement setting forth the terms and conditions of any qualified  
21 loans to be made to the school district under this act.

22 (4) If a school district does not issue its qualified bonds  
23 within 180 days after the date of the order qualifying bonds, the  
24 school district may reapply for qualification by filing an  
25 application, an additional application fee determined by the state  
26 treasurer of not less than \$500.00, and information necessary to  
27 update the contents of the original application for prequalification

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or qualification.

(5) The state treasurer may qualify refunding bonds issued to refund qualified bonds if the state treasurer finds that the refunding bonds comply with the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

Sec. 8. A ballot submitted to the school electors of a school district after <<November 8, 2005>> requesting authorization to issue unlimited tax general obligations that will be guaranteed by this state in accordance with section 16 of article IX of the state constitution of 1963 shall inform the electors that if the school district borrows from this state to pay debt service on the bonds, the school district may be required to continue to levy mills beyond the term of the bonds to repay this state.

Sec. 9. (1) Except as otherwise provided in this act, a school district may borrow from the state an amount not greater than the difference between the proceeds of the school district's computed millage and the amount necessary to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies.

(2) For school districts having qualified loans outstanding as of the effective date of this act, the state treasurer shall review information relating to each school district regarding the taxable value of the school district and the actual debt service of outstanding qualified bonds as of the effective date of this act and shall issue an order establishing the payment date for all those outstanding qualified loans and any additional qualified loans expected to be incurred by those school districts related to qualified



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bonds issued before the effective date of this act. The payment date shall be <<not later than 72

>> months after the date on which the qualified bonds most recently issued by the school district are due and payable.

(3) For qualified loans related to qualified bonds issued after the effective date of this act, the qualified loans shall be due <<not later than 72

>> months after the date on which the qualified bonds for which the school borrowed from this state are due and payable.

(4) Except with regard to qualified loans described in subsection (2), each loan made or considered made to a school district under this act shall be for debt service on only a specific qualified bond issue. The state treasurer shall maintain separate accounts for each school district on the books and accounts of this state noting the qualified bond, the related qualified loans, the final payment date of the bonds, the final payment date of the qualified loans, and the interest rate accrued on the loans.

(5) For qualified loans relating to qualified bonds issued after the effective date of this act, a school district shall continue to levy the computed mills until it has completely repaid all principal and interest on its qualified loans.

(6) For qualified loans relating to qualified bonds issued before the effective date of this act, a school district shall continue to comply with the levy and repayment requirements imposed before the effective date of this act. Not less than 90 days after the effective date of this act, the state treasurer and the school district shall

1 enter into amended and restated repayment agreements to incorporate  
2 the levy and repayment requirements applicable to qualified loans  
3 issued before the effective date of this act.

4 (7) Upon the request of a school district made before June 1 of  
5 any year, the state treasurer annually may waive all or a portion of  
6 the millage required to be levied by a school district to pay  
7 principal and interest on its qualified bonds or qualified loans under  
8 this section if the state treasurer finds all of the following:

9 (a) The school board of the school district has applied to the  
10 state treasurer for permission to levy less than the millage required  
11 to be levied to pay the principal and interest on its qualified bonds  
12 or qualified loans under subsection (1).

13 (b) The application specifies the number of mills the school  
14 district requests permission to levy.

15 (c) The waiver will be financially beneficial to this state, the  
16 school district, or both.

17 (d) The waiver will not reduce the millage levied by the school  
18 district to pay principal and interest on qualified bonds or qualified  
19 loans under this act to less than 7 mills.

20 (e) The board of the school district, by resolution, has agreed  
21 to comply with all conditions that the state treasurer considers  
22 necessary.

23 (8) Except as otherwise provided in this act, loans shall bear  
24 interest at the greater of 3% or the average annual cost of funds  
25 computed annually on the basis of all state general obligations issued  
26 under section 16 of article IX of the state constitution of 1963.

27 Sec. 10. The state treasurer shall keep all certificates of

1 qualification or approval in a permanent file and shall deliver copies  
2 of the certificates to the school district.

3 Sec. 11. The state treasurer shall promulgate rules to implement  
4 this act pursuant to the administrative procedures act of 1969, 1969  
5 PA 306, MCL 24.201 to 24.328.

6 Sec. 12. If a school district does not apply for qualification or  
7 approval of a bond issue before the issuance of those bonds, the state  
8 treasurer shall not approve or qualify those bonds as qualified bonds  
9 under this act.

10 Sec. 13. (1) If a school district owes a balance due to the  
11 revolving loan fund or has been identified as a potential borrower,  
12 the school district shall file an annual loan activity application  
13 with the state treasurer no less than 60 days before certifying its  
14 annual tax levy. The annual loan activity application shall be  
15 submitted in a format prescribed by the state treasurer and shall  
16 provide the taxable value, debt service, and any other information  
17 necessary to determine the proper required millage levy required under  
18 this act. The application shall contain a resolution passed by the  
19 local school board authorizing a designated school district official  
20 to complete all necessary documents to obtain a loan from the  
21 revolving loan fund or for making repayment to the revolving loan fund  
22 for the year.

23 (2) If a school district is eligible to borrow for debt service  
24 on qualified bonds, the school district shall file a draw request with  
25 the state treasurer not less than 30 days before each date on which  
26 the school district owes the debt service. The draw request shall  
27 include all of the following:

1 (a) A statement of the debt service owed in the next 6 months.

2 (b) A copy of the most recent bank statement showing the amount  
3 on hand in the debt service accounts for all qualified bonds.

4 (c) A statement of any revenue received for payment of the debt  
5 service since the date of the bank statement.

6 (d) A statement of any withdrawals made from the debt service  
7 account since the date of the bank statement.

8 (3) Not more than 7 days before the date established by the  
9 state treasurer for making qualified loans, the school district shall  
10 confirm in writing the final qualified loan amount to be drawn on a  
11 certificate in the form prescribed by the state treasurer.

12 (4) Upon receipt of a qualified loan confirmation described in  
13 subsection (3), the state treasurer shall determine the amount of the  
14 draw, which shall be the difference between the funds on hand in all  
15 debt service accounts and the amount of the debt service, and shall  
16 make a qualified loan in that amount to the school district no later  
17 than 6 days before the date the debt service is due.

18 (5) When a school district's computed millage is sufficient to  
19 pay principal and interest on its qualified bonds, a school district  
20 shall file a loan activity statement with the state treasurer no later  
21 than 30 days before the date set for payment of the qualified bonds  
22 setting forth all of the following:

23 (a) A statement of the debt service owed in the next 6 months.

24 (b) A copy of the most recent bank statement showing the amount  
25 on hand in the debt service account for the qualified bonds.

26 (c) A statement of any revenue received for payment of the debt  
27 service since the date of the bank statement.

1 (d) A statement of any withdrawals made from the debt service  
2 account since the date of the bank statement.

3 (6) Within 30 days after receipt of the loan activity statement  
4 under subsection (5), the state treasurer shall send an invoice to the  
5 school district for the amount of repayment the school district owes  
6 on its outstanding qualified loans, which shall be the difference  
7 between the debt service payable or paid to bondholders and the funds  
8 on hand at the school district, less a reasonable amount of funds on  
9 hand, as determined by the state treasurer, to cover minimum balance  
10 requirements or potential tax disputes. The school district shall  
11 remit the amount specified in the invoice within 30 days after the  
12 dated date of the invoice.

13 Sec. 14. (1) If any paying agent for a school district's  
14 qualified bonds notifies the state treasurer that the school district  
15 has failed to deposit sufficient funds to pay principal and interest  
16 due on the qualified bonds when due, or if a bondholder notifies the  
17 state treasurer that the school district has failed to pay principal  
18 or interest on qualified bonds when due, whether or not the school  
19 district has filed a draw request with the state treasurer, the state  
20 treasurer shall promptly pay the principal or interest on the  
21 qualified bond when due.

22 (2) If the state treasurer pays any amount described in this  
23 section, the state treasurer shall bill the school district for the  
24 amount paid and the school district shall immediately remit the amount  
25 to the state treasurer. If the school district would have been  
26 eligible to borrow the debt service in accordance with the terms of  
27 this act, the school district shall enter into a loan agreement

1 establishing the terms of the qualified loan as provided in this act.  
2 If the state treasurer directs the Michigan municipal bond authority  
3 to pay any amount described in this section, the state treasurer shall  
4 cause the Michigan municipal bond authority to bill the school  
5 district for the amount paid and the school district shall immediately  
6 remit the amount to the Michigan municipal bond authority.

7       Sec. 15. (1) If a school district that owes this state loan  
8 repayments relating to qualified bonds fails to levy at least the  
9 computed millage upon its taxable value for debt retirement purposes  
10 for qualified bonds and for repayment of a qualified loan made under  
11 this act while any part of the qualified loan is unpaid or defaults in  
12 its agreement to repay a qualified loan or any installment of a  
13 qualified loan, the school district shall increase its debt levy in  
14 the next succeeding year to obtain the amount necessary to repay this  
15 state the amount of the default plus a late charge of 3% and shall pay  
16 that amount to this state together with any other amounts owed during  
17 the next tax year. The school district may use other funds to repay  
18 this state including a transfer of general funds of the school  
19 district, if approved by the state treasurer. The state treasurer  
20 shall not disburse state school aid to the school district until the  
21 school district has made satisfactory arrangements with the state  
22 treasurer for the payment of the amount in default.

23       (2) If a school district fails to process any report,  
24 application, confirmation, or repayment as required under this act,  
25 the school district shall pay to the state treasurer a special  
26 handling fee of \$500.00 for the first occurrence and \$1,000.00 for  
27 each subsequent occurrence within 30 days after the date the state

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1 treasurer notifies the school district of the amount due. The school  
2 district may not use debt levy to pay any special handling fee. If a  
3 school district fails to pay a special handling fee required under  
4 this section, the state treasurer may deduct the amount of the unpaid  
5 special handling fee from subsequent state school aid payments to the  
6 school district.

7       Sec. 16. The state treasurer shall deposit all fees collected  
8 under this act into a separate fund established within the state  
9 treasury, and shall use the proceeds of the fees solely for the  
10 purpose of administering and enforcing this act. The unexpended and  
11 unobligated balance of this fund at the end of each state fiscal year  
12 shall be carried forward over to the succeeding state fiscal year and  
13 shall not lapse to the general fund but shall be available for  
14 reappropriation for the next state fiscal year.

15       Sec. 17. A person who knowingly makes a false statement or  
16 conceals material information for the purpose of obtaining  
17 qualification of a bond issue under this act or for the purpose of  
18 obtaining a qualified loan under this act, or who knowingly uses all  
19 or part of the proceeds of a qualified loan obtained under this act  
20 for any purpose not authorized by this act, is guilty of a felony  
21 punishable by imprisonment for not more than 4 years or a fine of not  
22 more than <<\$5,000.00>>, or both.

23       Sec. 18. If a school district has completed the projects approved  
24 by the school electors of the school district to be funded from  
25 proceeds of qualified bonds, a school district may use any remaining  
26 proceeds of the qualified bonds as follows:

27       (a) To pay for enhancements to the projects approved by the

1 school electors as described in the ballot proposing the qualified  
2 bonds.

3 (b) To pay debt service on the qualified bonds.

4 (c) To repay this state.

5 Sec. 19. The state treasurer may designate in writing a person or  
6 persons to take any actions required to be taken by the state  
7 treasurer under this act. The signature of any designee shall have  
8 the same force and effect as the signature of the state treasurer for  
9 all purposes of this act.

10 Enacting section 1. 1961 PA 108, MCL 388.951 to 388.963, is  
11 repealed.

12 Enacting section 2. This act does not take effect unless all of  
13 the following bills of the 93rd Legislature are enacted into law:

14 (a) Senate Bill No. 407.

15 (b) Senate Bill No. 408.

16 (c) Senate Bill No. 410.

17 (d) Senate Bill No. 411.